

# GibbsLawGroup LLP

October 20, 2022

**VIA ECF**

Honorable Yvonne Gonzalez Rogers  
United States District Judge  
Oakland Courthouse, Courtroom 1 – 4th Floor  
1301 Clay Street  
Oakland, CA 94612

Re: **MDL No. 3047 – *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation***

Dear Judge Gonzalez Rogers:

As a partner at Gibbs Law Group LLP in Oakland, which represents plaintiffs in *Gould* and *Thacker*,<sup>1</sup> I respectfully submit this application to Plaintiffs' Steering Committee, along with my resume and a list of attorneys who support my application. See Ex. A; Ex. B.

**Professional Experience**. Consumer privacy litigation and mass torts occupy central roles in my practice. I played a lead role in multi-district litigation against a television manufacturer accused of collecting and selling data about consumers' viewing habits without their consent, in violation of federal wiretap and California privacy laws (among others). *In re: Vizio Consumer Privacy Litig.*, No. 8:16-md-02693 (C.D. Cal.) (Staton, J.). I led briefing on plaintiffs' dispositive motions and was the only attorney to argue them. I also briefed and argued every discovery motion except for one informal telephone conference. Judge Staton appointed me co-lead counsel for the settlement class after I and co-counsel negotiated monetary relief and significant business practice changes that a privacy expert heralded. My work was well received. See Second Mot. to Dismiss H'rg Tr. 28:18-21 (May 26, 2017) ("As usual, regardless of how I rule on this, I am always thrilled to have you all in front of me, because you do such a good job in arguing these points."); Preliminary Approval H'rg Tr. 3:14-17 (Dec. 7, 2018) ("And you did a very good job on these papers, by the way, so I'm glad I appointed all of you as lead counsel, because – it probably is the best set of papers I've had on preliminary approval. . .").

I also assumed a lead role in multi-district litigation against a technology company accused of preinstalling software on laptops that allegedly caused performance, privacy, and security issues for consumers. *In re Lenovo Adware Litig.*, No. 15-md-02624-RMW/HSG (N.D. Cal.) (Whyte, J. (ret.) and Gilliam, J.). I successfully briefed and argued a motion to dismiss and a motion to certify a nationwide litigation class for monetary damages before Judge Whyte, who then retired, and later argued a second motion to dismiss before Judge Gilliam. The case ultimately settled on a nationwide basis.

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<sup>1</sup> *Gould v. Meta Platforms, Inc. et al.*, Case No. 3:22-cv-06279 (N.D. Cal.); *Thacker v. Meta Platforms, Inc. et al.*, Case No. 2:22-cv-03207 (S.D. Ohio) (transfer pending).

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More recently, I joined with a coalition of privacy attorneys to pursue class action claims against Thomson Reuters, alleging the company violates California law by collecting and selling millions of Californians' data through its CLEAR database without consent. *Brooks v. Thomson Reuters Corp.*, No. 3:16-cv-01418-EMC-KAW (N.D. Cal.) (Chen, J.). The complaint survived a motion to dismiss that raised an immunity defense under the Communications Decency Act of 1996, 47 U.S.C. § 230, and proceeds with injunctive and monetary claims. I presented oral argument for plaintiffs on the motion to dismiss and am now leading class certification briefing.

In the area of mass torts, Judge Rodgers of the Northern District of Florida appointed me to a law-and-briefing subcommittee in multi-district litigation on behalf of military servicemembers and veterans who suffered injuries due to defective 3M earplugs, which were standard-issue for U.S. military members for more than a decade. *In re: 3M Combat Arms Earplug Products Liability Litig.*, No. 3:19-md-2885-MCR (N.D. Fla.). And Judge Milazzo appointed me to the plaintiffs' steering committee and as co-chair of a law-and-briefing committee in multi-district litigation on behalf of breast cancer survivors who suffered permanent hair loss after using the Taxotere chemotherapy drug. *In re: Taxotere (Docetaxel) Prod. Liab. Litig.*, No. 16-md-02740 (E.D. La.). Because good work begets more work, I was added to multiple trial teams in both these MDLs. I also obtained a unanimous decision from the Fifth Circuit granting a new bellwether trial in the *Taxotere* MDL, an appeal which I briefed and argued. *In re: Taxotere (Docetaxel) Prod. Liab. Litig.*, 26 F.4th 256 (5th Cir. 2022).

Before joining Gibbs Law Group, I was an attorney at the Center for Constitutional Litigation in Washington, D.C. While there, I briefed and argued appeals and dispositive motions in trial courts, in the areas of preemption, qualified immunity, and federal jurisdiction. I was the lead author of merits briefing addressing whether personal jurisdiction exists over a foreign manufacturer in *J. McIntyre Machinery, Ltd. v. Nicastro*, 131 S. Ct. 2780 (2011). The Center also represented the American Association for Justice when it appeared as an amicus curiae before the U.S. Supreme Court. Since leaving the Center, I have maintained an amicus curiae practice. Recently, I represented a bipartisan group of former members of the U.S. Senate and House of Representatives before the U.S. Supreme Court in *Trump v. Mazars USA, LLP*, No. 19-715.

**Judicial References.** The names and contact information of judges before whom I have appeared in the matters discussed above are:

- Hon. Josephine L. Staton (C.D. Cal.); courtroom deputy telephone (213) 894-0189
- Hon. Ronald L. Whyte (ret.) (N.D. Cal.); contact unknown
- Hon. Haywood S. Gilliam, Jr. (N.D. Cal.); courtroom deputy telephone (510) 637-3543
- Hon. Edward M. Chen (N.D. Cal.); courtroom deputy telephone (415) 522-2034
- Hon. M. Casey Rodgers (N.D. Cal.); chambers telephone (850) 435-8448
- Hon. Jane Triche Milazzo (E.D. La.); chambers telephone (504) 589-7585

I have appeared most frequently before Judge Staton, Judge Rodgers, and Judge Milazzo.

***Willingness and Ability to Serve as a Steering Committee Member in Time-Consuming Litigation, and to Work Cooperatively with All.*** The timing of this MDL is favorable for me in that there are fewer demands on my time for common benefit work in *Taxotere*, now that cases are being prepared for remand. I appreciate the personal commitment necessary for effective leadership and have the capacity to assume a role as a member of a steering committee. I likewise appreciate—and value—the importance of working cooperatively with all, including (if not especially) with counsel for defendants. Good relations are critical to case management and advancement, and I have worked hard to foster them. *See Ex. B* (listing other applicants who support my application, and whom I support).

***Access to Resources.*** Gibbs Law Group is a national litigation firm with thirty-two attorneys representing plaintiffs in class and collective actions in state and federal courts, and in arbitration. We have the financial resources necessary to help prosecute this case, as well as experience managing complex, resource-intensive cases.

***Other considerations.*** I was recognized as a Top Plaintiff Lawyer in California for 2021 by Daily Journal; received a 2019 California Lawyer Attorney of the Year Award for my work in the California Supreme Court in *De La Torre v. CashCall*, 5 Cal. 5th 966 (2018); and was named a top cybersecurity and privacy attorney under 40 by Law360 (Rising Stars) in 2017.

I am also active in the legal community. I serve on the board of the Civil Justice Research Initiative of Berkeley Law, am a member of the Lawyers Committee of the National Center for State Courts, and recently served as chair of the American Association for Justice's LGBT Caucus.

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Thank you for considering my application for appointment to Plaintiffs' Steering Committee.

Sincerely,

Andre Mura

# **EXHIBIT A**



## Andre M. Mura | Partner

Andre M. Mura represents plaintiffs in class actions and mass torts including in the areas of consumer protection, privacy, and products liability. Before joining Gibbs Law Group, Andre was senior litigation counsel at the Center for Constitutional Litigation PC, where he represented plaintiffs in high-stakes appeals in state supreme courts and federal appellate courts.

Andre was named among the Top Plaintiff Lawyers in California for 2021 by Daily Journal, and he received a 2019 California Lawyer Attorney of the Year Award for his work in the California Supreme Court in *De La Torre v. CashCall*. He is on the Board of the Civil Justice Research Initiative of Berkeley Law, a Fellow of the American Bar Foundation, a member of the Lawyers Committee of the National Center for State Courts, a Trustee of the National Civil Justice Institute, past Chair of the American Association for Justice's LGBT Caucus, past Trustee of the National College of Advocacy, and a member of Williams College's Latino/a and BiGLATA Alumni Network.

### Litigation Highlights

***In re: 3M Combat Arms Earplug Products Liability Litigation*** Andre was court-appointed to the plaintiffs' law-and-briefing committee in this multi-district litigation on behalf of military servicemembers and veterans who suffered injuries due to defective 3M earplugs, which were standard-issue for U.S. military members for more than a decade. Andre also served on several bellwether trial teams, securing multiple favorable jury verdicts.

***In re: Taxotere (Docetaxel) Products Liability Litigation*** Andre was a member of the trial team in a two-week federal jury trial and is member of Plaintiffs' Steering Committee and co-chair of Law and Briefing in this multi-district litigation on behalf of breast cancer survivors who suffered permanent hair loss after using the Taxotere chemotherapy drug. He recently obtained a unanimous decision granting a bellwether plaintiff a new trial. *See* 26 F.4th 256 (5th Cir. 2022)

***In re: Vizio, Inc. Consumer Privacy Litigation*** Andre was co-lead counsel for the settlement class in this multi-district lawsuit alleging that Vizio collected and sold data about consumers' television viewing habits and their digital identities to advertisers without consumers' knowledge or consent. He negotiated a settlement providing for class-wide injunctive relief transforming the company's data collection practices, as well as a \$17 million fund to compensate consumers who were affected.

***De La Torre v. CashCall*** Andre played a key role in briefing before the California Supreme Court, resulting in a unanimous decision in the plaintiffs' favor. The decision changed decades-old assumptions that lenders in California had a virtual "safe harbor" from unconscionability challenges to loan interest rate terms.

***In re: Lenovo Adware Litigation*** Andre briefed and argued a motion to dismiss and motion to certify a nationwide litigation class for monetary damages. The court approved a \$8.3 million class action settlement to resolve allegations that Lenovo preinstalled software on laptops that caused performance, privacy and security issues for consumers.

***Beaver et. al. v. Tarsadia Hotels, Inc.*** Andre contributed to briefing before the Ninth Circuit Court of Appeals resulting in a unanimous decision affirming the lower court's ruling that the UCL's four-year statute of limitations (and its accrual rule) applied in claims alleging violations of the Interstate Land Sales Full Disclosure Act (ILSA) even though ILSA has a shorter statute of limitations.



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#### Practice Emphasis

Class Actions  
Consumer Protection  
Privacy  
Mass Personal Injury

#### Education

The George Washington University Law School,  
J.D., 2004

Williams College, B.A.,  
2000

#### Admissions

California  
District of Columbia

***Watts v. Lester E. Cox Medical Centers***, 376 S.W.3d 633 (Mo. 2012) Andre successfully argued that a state law limiting compensatory damages in medical malpractice cases violated his client's right to trial by jury. In ruling for Andre's client, the Missouri high court agreed to overturn a 20-year-old precedent.

### **U.S. Supreme Court Advocacy**

***Trump v. Mazars USA, LLP***, 140 S. Ct. 2019 (2020) Andre represented a bipartisan group of former members of the U.S. Senate and House of Representatives appearing as amici in support of Congress's broad investigatory power.

***Merck Sharp & Dohme Corp. v. Albrecht***, 139 S. Ct. 1668 (2019) In a case concerning the scope of federal immunity for brand-name drug manufacturers, Andre represented medical doctors appearing as amici curiae. His amicus brief was discussed at oral argument, with Supreme Court counsel for Albrecht telling the Justices, "It's a beautifully done amicus brief to explain what the scientists knew and when they knew it...."

***Mutual Pharmaceutical Co., Inc. v. Bartlett***, 133 S. Ct. 2466 (2013) Andre was the lead author of an amicus curiae brief for the American Association for Justice and Public Justice in case examining whether federal drug safety law preempts state-law liability for defectively designed generic drugs.

***J. McIntyre Machinery, Ltd. v. Nicastro***, 131 S. Ct. 2780 (2011) Andre was a lead author of merits briefing addressing personal jurisdiction over a foreign manufacturer.

### **Awards & Honors**

Top Plaintiff Lawyers in California, *Daily Journal* (2021)

California Lawyer Attorney of the Year (CLAY) Award, *Daily Journal* (2019)

Top Cybersecurity & Privacy Attorneys Under 40, *Law360* Rising Stars (2017)

Northern California Super Lawyers (2019-2022); *Rising Star* (2016-2018)

### **Professional Affiliations**

American Association for Justice- Class Action Litigation Group, Legal Affairs Group, LGBT Caucus

American Bar Foundation, Fellow

Consumer Attorneys of California, Member

Civil Justice Research Initiative of Berkeley Law, Board Member

National Center for State Courts, Lawyers Committee

National Civil Justice Institute, Trustee

### **Select Publications & Presentations**

Presenter, "Consumer Advocates Speak," Practicing Law Institute, 24<sup>th</sup> Annual Consumer Financial Services Institute.

Author, "Staying on Track After Bristol-Myers," Trial Magazine, American Association for Justice, April 2019.

Presenter, "Personal Jurisdiction, Choice of Law & Hyundai," Class Action Mastery Forum, January 2019.

Panelist, "State Court Protection of Individual Constitutional Rights," Pound Civil Justice Institute 2018 Forum for State Appellate Court Judges, July 2018.

Author, *Buckman Stops Here! Limits on Preemption of State Tort Claims Involving Allegations of Fraud on the PTO or the FDA*, 41 Rutgers L.J. 309, 2010.

# **EXHIBIT B**

**Names of Supportive Attorney Applicants**

Attorneys who support Andre Mura's application, and whose applications he supports, are:

Lexi Hazam Lieff Cabraser Heimann & Bernstein	Emily Jeffcott Morgan & Morgan
Chris Seeger Seeger Weiss	Joseph Vanzandt Beasley Allen
Jennie Anderson Andrus Anderson	Ron Austin Ron Austin Law
Matt Bergman Social Media Victims Law Center	James Bilsborrow, Weitz Luxenberg
Paige Boldt Watts Guerra	Tom Cartmell Wagstaff Cartmell
Jayne Conroy Simmons Hanley Conroy	Carrie Goldberg C.A. Goldberg Victims' Right Law Firm
Kirk Goza Gozza & Honnold	Sin-Ting Mary Liu Aylstock, Witkin, Kreis & Overholtz
Emmie Paulos, Levin, Papantonio, Rafferty	Roland Tellis Baron & Budd
Alexandra Walsh Walsh Law	Previn Warren Motely Rice
Michael Weinkowitz Levin, Sedran & Berman	